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February 10, 1984

Mr. Jeffrey W. Leiding, Director
Administrative Office of the Courts
c/o New Hampshire Supreme Court
Noble Drive
Concord, New Hampshire 03301

Dear Mr. Leiding:

You have asked for our opinion as to whether all nonjudicial employees (employees other than justices and clerks) of the unified court system have, as of January 1, 1984, become state employees for purposes of indemnification under RSA 99-D. After reviewing RSA 99-D and Chapter 383, Laws of 1983, relating to the unified court system, we conclude that the indemnification provisions of RSA 99-D apply to all judicial and nonjudicial employees of the unified court system.

Chapter 383, Laws of 1983 unified the state court system, and conferred management responsibility for all state courts on the New Hampshire Supreme Court. In addition, the Legislature also enacted Chapter 381:3, now codified as RSA 490:28, which provides that all "full-time, nonjudicial employees of the judicial branch shall, effective January 1, 1984, receive all fringe benefits and salary increases as provided for classified state employees...." This section makes the conditions of employment for nonjudicial employees of the unified court system correspond to those applicable to state employees. For purposes of RSA 99-D, therefore, all such employees are "employee[s] of the state or an agency thereof." In response to your second question, any determination by the attorney general under RSA 99-D:2 whether the employee was acting within



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the scope of his employment, not wantonly or recklessly, would be made after a review of the facts at the time any litigation is instituted against an employee.

I trust this letter is responsive to your inquiry. Please let me know should you have any additional questions.

Very truly yours,

Leslie J. Ludtke
Assistant Attorney General
Division of Legal Counsel

LJL/smg
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